
HOUSE BILL No. 1783

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-8-5.1.

Synopsis: Out-of-state health insurance. Allows an accident and sickness insurer that is not licensed in Indiana to issue or deliver an individual policy of accident and sickness insurance to an individual resident of Indiana without complying with certain provisions of Indiana law if the accident and sickness insurer is licensed in and complies with the law of another state that meets certain requirements.

Effective: July 1, 2007.

Koch, Welch

January 26, 2007, read first time and referred to Committee on Interstate and International Cooperation.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1783

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-8-5.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]:

4 **Chapter 5.1. Out-of-State Individual Policies of Accident and**
5 **Sickness Insurance**

6 **Sec. 1. As used in this chapter, "hazardous financial condition"**
7 **means a condition of an out-of-state insurer that, based on the**
8 **out-of-state insurer's present or reasonably anticipated financial**
9 **condition, is such that the out-of-state insurer is unlikely to be able**
10 **to:**

11 (1) meet obligations to policyholders with respect to known
12 claims and reasonably anticipated claims; or

13 (2) pay other obligations in the normal course of business.

14 **Sec. 2. As used in this chapter, "out-of-state insurer" refers to**
15 **an insurer described in section 4 of this chapter.**

16 **Sec. 3. As used in this chapter, "policy of accident and sickness**
17 **insurance" means a policy or contract covering one (1) or more of**



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the kinds of insurance described in Class 1(b) or 2(a) of IC 27-1-5-1.

Sec. 4. Notwithstanding any other law, an out-of-state insurer that:

(1) does not possess a certificate of authority to do the business of insurance in Indiana;

(2) is licensed to do the business of insurance in another state in which:

(A) the insurance regulatory authority uses a risk based capital formula for determination of capital and surplus requirements for insurers that issue policies of accident and sickness insurance; and

(B) the law requires an independent review process that is substantially similar to the external review process required under IC 27-8-29 for individuals covered by individual policies of accident and sickness insurance; and

(3) complies with:

(A) this chapter; and

(B) the applicable law of the state in which the out-of-state insurer is licensed;

may issue or deliver an individual policy of accident and sickness insurance to a resident of Indiana without complying with any other provision of IC 27.

Sec. 5. A provision of Indiana law that would do any of the following does not apply to an out-of-state insurer:

(1) Regulate or make unlawful the operation of the out-of-state insurer in Indiana, unless the provision requires the out-of-state insurer to:

(A) pay, on a nondiscriminatory basis, premium and other taxes levied on insurers, surplus lines insurers, or brokers licensed in Indiana, or policyholders in Indiana;

(B) register with and designate the commissioner as the out-of-state insurer's agent for service of process;

(C) submit to an examination by the commissioner to determine the out-of-state insurer's financial condition if:

(i) the commissioner has not performed an examination of the out-of-state insurer within the period recommended by the National Association of Insurance Commissioners; and

(ii) the examination is conducted in accordance with the examiner's handbook of the National Association of Insurance Commissioners and is coordinated to avoid

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unjustified duplication or repetition;

(D) comply with an order issued in a:

(i) delinquency proceeding initiated by the commissioner due to a finding of financial impairment after an examination conducted under clause (C); or

(ii) voluntary dissolution proceeding;

(E) comply with an injunction issued upon a petition by the commissioner alleging that the out-of-state insurer is in hazardous financial condition;

(F) participate, on a nondiscriminatory basis, in the guaranty association under IC 27-8-8; or

(G) comply with Indiana law concerning fraud and abuse and IC 27-4-1.

(2) Require a policy of accident and sickness insurance issued by the out-of-state insurer to be countersigned by an insurance producer residing in Indiana.

(3) Otherwise discriminate against the out-of-state insurer.

Sec. 6. An out-of-state insurer shall provide the following notice in 12 point bold type in a policy of accident and sickness insurance offered in Indiana and at renewal:

"NOTICE

This policy is issued by (name of out-of-state insurer), is governed by the laws of (state in which the out-of-state insurer is licensed), and has met the requirements of all the laws of (state in which the out-of-state insurer is licensed) as determined by the Department of Insurance of (state in which the out-of-state insurer is licensed). This policy may be less expensive than others because it is not subject to all the insurance laws of Indiana, including coverage of some services or benefits mandated by the insurance law of Indiana. Additionally, this policy is not subject to all Indiana consumer protection laws or restrictions on rate changes. As with all insurance products, before purchasing this policy, you should carefully review the policy and determine what health care services the policy covers and what benefits it provides, including any exclusions, limitations, or conditions for such services or benefits."

Sec. 7. (a) An out-of-state insurer may not, upon renewal of a policy of accident and sickness:

(1) move or reclassify, based on a health status factor of the individual, an individual covered under the policy from the class the individual was in at the time of issuance of the policy; or

(2) increase premiums charged for the policy based on:

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(A) a health status factor of the individual; or

(B) the past or prospective claims experience of the individual.

(b) This section does not prohibit an out-of-state insurer from:

(1) terminating or discontinuing all coverage or all of a class of coverage in Indiana, without respect to one (1) individual;

(2) raising premium rates for all individuals within a class of coverage based on claims experience;

(3) changing premiums or offering discounted premiums to individuals who engage in wellness activities at intervals prescribed by the out-of-state insurer, if the premium changes or offerings are:

(A) disclosed to the individuals in the policy;

(B) based on specific wellness activities that are not applicable to all individuals; and

(C) not obtainable by all individuals to whom coverage is offered;

(4) reinstating lapsed coverage; or

(5) retroactively adjusting the rates charged to an individual insured if the initial rates are set based on material misrepresentation by the individual at the time the policy is issued.

Sec. 8. An out-of-state insurer may not offer coverage under an individual policy of accident and sickness insurance that is not currently offered in the state in which the out-of-state insurer is licensed.

Sec. 9. An insurance producer or broker that acts or offers to act as an insurance producer or broker for an out-of-state insurer in Indiana shall be licensed in Indiana or entitled to reciprocity in licensure under IC 27-1-15.6.

Sec. 10. An out-of-state insurer shall file with the commissioner, before offering a policy of accident and sickness insurance in Indiana:

(1) a copy of the out-of-state insurer's plan of operation, feasibility study, or other statement of the policy, coverage, and state in which the out-of-state insurer is licensed;

(2) written notice of any change in the out-of-state insurer's state of licensure;

(3) written notice from the out-of-state insurer of the out-of-state insurer's compliance with the laws of the out-of-state insurer's state of licensure;

(4) a copy of the out-of-state insurer's quarterly financial

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statement, certified by an independent public accountant and containing a statement of opinion on loss and loss adjustment expense reserves by a:

- (A) member of the American Academy of Actuaries; or
- (B) qualified loss reserve specialist.

Sec. 11. This chapter does not affect the authority of a court to enjoin:

- (1) the solicitation or sale of an individual policy of accident and sickness insurance to a person or group that is not eligible for the coverage; or
- (2) the solicitation or sale of an individual policy of accident and sickness insurance by, or the operation of, an out-of-state insurer that is in hazardous financial condition.

Sec. 12. If an out-of-state insurer violates this chapter, the commissioner shall report the violation to the insurance regulatory authority of the state in which the out-of-state insurer is licensed.

Sec. 13. In reviewing an action initiated in Indiana against an out-of-state insurer, the court shall apply the law of the state in which the out-of-state insurer is licensed.

Sec. 14. (a) A consumer may bring an action against an out-of-state insurer in an Indiana court to recover damages resulting from a violation of this chapter.

(b) The court in which an action is brought under subsection (a) shall apply the law of the state in which the out-of-state insurer is licensed.

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